

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress
Washington, D.C.

In re

**DETERMINATION OF ROYALTY RATES AND
TERMS FOR MAKING AND DISTRIBUTING
PHONORECORDS (Phonorecords III)**

**Docket No. 16-CRB-0003-PR
(2018–2022) (Remand)**

**JOINT MOTION REGARDING PUBLIC VERSIONS OF REMAND BRIEFS
AND FOR CLARIFICATION OF THE BOARD’S DEC. 23, 2020 ORDER**

In their December 23, 2020 *Order Adopting Schedule for Proceedings on Remand* (the “Dec. 23 Order”), the Copyright Royalty Judges (the “Judges”) directed the Participants to file on April 1, 2021 written briefs on each of the issues remanded to the Judges, together with any evidence (which may include witness statements and accompanying exhibits) supporting the filing Participant’s position on the rate structure issue. Amazon.com Services LLC, Google LLC, Pandora Media, LLC, and Spotify USA Inc. (collectively, the “Services”) and the National Music Publishers’ Association, Inc., and the Nashville Songwriters Association International (collectively, the “Copyright Owners”) intend to file with the Judges, and serve upon one another, the restricted versions of their briefs and any such evidence and to produce all documents relied upon in connection with such evidence, on April 1, 2021, as required by and in accordance with the terms of the Dec. 23 Order.

The Participants jointly request that they be permitted to file the public, redacted versions of their briefs and any evidence (which may include witness statements and accompanying exhibits) supporting the filing Participant’s position on the rate structure issue, on Monday, April 5, 2021. This additional period of time would allow the Participants to focus on the finalization

and submission of their restricted briefs, while also enabling them to redact their submissions for public filing in consultation with each other. The extension of time to file public, redacted versions of the above-referenced submissions will not impact the Judges' or the other Participants' receipt of the restricted versions of those submissions on April 1 and is also consistent with the past practice in other CRB proceedings, in which participants have been afforded several extra days to submit public versions of their filings.

The Participants further request the elimination of the requirement that Participants file a redaction log when submitting restricted papers to the Judges. Such requirements have previously been eliminated in similar proceedings without adverse consequence, including in *Business Establishments III* and *Web V*. Based on the experience of counsel, redaction logs have been time-consuming to prepare and have not served any meaningful purpose. Even without a redaction log, counsel can view the restricted information directly in the document itself, and the nature of the redacted material is typically evident to others from the face of the parties' filings, rendering the description of the material on a redaction log duplicative and superfluous. Finally, the preparation of the redaction log is highly burdensome, especially given the extremely tight deadlines in a CRB proceeding. For these reasons, the undersigned Participants urge the Judges to eliminate the requirement in Section IV.C of the protective order requiring a redaction log. To the extent that the Judges decline to eliminate this requirement, the Participants request, in the alternative, that the Judges permit redaction logs to be filed concurrently with the public, redacted briefs on Monday, April 5, 2021.

Finally, the Participants seek a clarification of one aspect of the Dec. 23 Order. As noted above, the Dec. 23 Order requires, with respect to the upcoming April 1, 2021 submissions by the Participants, the "Filing of evidence (which may include witness statements and accompanying

exhibits) supporting each participant's position on the rate structure issue." Order at 1. The Participants understand the Order to call for the filing of new evidence only, rather than also re-filing evidence that is already in the hearing record (such as hearing transcripts and admitted exhibits), which the Participants intend to reference by appropriate citation to the hearing record.

To assure that the Judges receive only the evidence that they want and not evidence that they already have access to in the hearing record, the Participants respectfully request that the Judges confirm Participants' understanding or advise if the Board instead wishes the Participants to re-file evidence already in the hearing record. In the event that the Board wishes the Participants to re-file evidence already in the hearing record, the Participants respectfully request that they be given until at least Monday, April 5, 2021 to file such evidence.

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Proof of Delivery

I hereby certify that on Tuesday, March 30, 2021, I provided a true and correct copy of the Joint Motion Regarding Public Versions of Remand Briefs and for Clarification of the Board's Dec. 23, 2020 Order to the following:

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